IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 3RD OCTOBER 2007 / 11TH ASWINA 1929

WP(C).No. 28088 of 2007(R)

OS.509/2005 of II ADDL.SUB COURT,ERNAKULAM

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PETITIONER:

K.R.NARAYANAN, S/O.LATE RAMAN,
PRASANTHI, AZAD ROAD, COCHIN-18.

BY ADV. SRI.T.M.ABDUL LATHEEF

RESPONDENT:

CYRIL P.KURIAN, S/O.KURIAN,
VETTUVAZHI VEETTIL, THRIKKANARVATTOM,
ERNAKULAM DISTRICT, COCHIN - 18.

BY ADV. SRI.SHAJI P.CHALY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JP

APPENDIX

PETITIONER'S EXHIBITS:

EXT. P1: COPY OF THE PLAINT O.S. NO.509 OF 2005 FILED BEFORE THE SUB COURT, ERNAKULAM.

EXT. P2: COPY OF THE WRITTEN STATEMENT DATED 22-12-2005 FILED BEFORE THE SUB COURT, ERNAKULAM IN O.S. NO.509 OF 2005.

EXT. P3: COPY OF THE PETITION TO AMEND THE WRITTEN STATEMENT DATED 19-12-2006 FILED BEFORE THE SUB COURT, ERNAKULAM AS I.A. NO.8516 OF 2006 IN OS.509 OF 2005.

EXT. P4: COPY OF THE PETITION TO ACCEPT THE LIST OF WITNESSES AND DOCUMENTS FILED BEFORE THE SUB COURT, ERNAKULAM IN O.S. NO. 509 OF 2005.

EXT. P5: COPY OF THE PETITION TO RE-OPEN THE EVIDENCE FILED BEFORE THE SUB COURT, ERNAKULAM IN O.S. NO.509 OF 2005.

EXT. P6: COPY OF THE PROOF AFFIDAVIT DATED 19-9-2007 FILED BY THE PETITIONER HEREIN BEFORE THE SUB COURT, ERNAKULAM IN O.S. NO.509 OF 2005.

/TRUE COPY/

P.A. TO JUDGE

JP

M.N.KRISHNAN, J

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W.P.(C) No.28088 OF 2007

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Dated this the 3rd day of October 2007

JUDGMENT

This writ petition is filed to call for the records relating to Exts.P1 to P6 and to direct the Sub Court-II, Ernakulam not to pass judgment in O.S.No.509 of 2005 without taking the evidence of the petitioner and his witnesses.

2. Heard the learned counsel on both sides. Learned counsel for the petitioner submits that his client has to be examined and the witnesses cited in the list are also to be examined for a proper appreciation and disposal of the case. There are allegations to the effect that sufficient opportunity has not been given which is refuted by the other side. I am not going into the merits or demerits of that submission. Interest of justice demands that opportunity must be given to the parties to adduce evidence and produce documents in support of their respective contentions.

Therefore, I direct the Sub Court-II, Ernakulam, if the evidence is already closed to reopen the evidence and permit the defendants to examine them as well as their witnesses, whose name figures in the witness list and

thereafter giving breathing time for argument, dispose of the matter in accordance with law. I also expect the petitioner to fully co-operate with the trial court for expeditious disposal of the case. If there are witnessess for whom summons have to be issued and their presence have to be procured, it must be issued. Parties are directed to appear before the court below on 12.10.2007.

Writ petition is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-